



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** February 5, 2019

**TO:** Christine Daniel, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** **Second Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending Article 17 Of Chapter 5 Of The Planning Regulations And Other Associated Provisions Of The Planning Regulations To Make Approvals Of Wireless Communications Facilities Subject To The Zoning Compliance Review Process (CEQA Determination: Exempt Pursuant To CEQA Guidelines Sections 15311, 15303, and 15061(b)(3))**

### RECOMMENDATION

The Planning Commission and staff recommend that the City Council pass the second reading of the attached ordinance to amend regulations concerning wireless telecommunication facilities outlined in Article 17 of Chapter 5 of the Planning Regulations to conform with the recent Federal Communications Commission (FCC) Ruling.

### DISCUSSION

The City Council held a public hearing and adopted the first reading of the attached ordinance on January 15, 2019. After hearing a staff presentation and taking public testimony, the Council deliberated and adopted the first reading of the ordinance with the following modifications (additional language is denoted by double underlined type):

- [2<sup>nd</sup> Recital] “**WHEREAS**, under the Ruling, local aesthetic standards must be reasonable, no more burdensome than those standards applied to other infrastructure, objective, and published in advance; and”
- [3<sup>rd</sup> Recital] “**WHEREAS**, the Ruling shortens the “shot clock” on small wireless devices, the time by which the local government has to approve or deny an application to as little as 60 days; and”
- Section 9-5.1704(c)(6): “**Gap in Coverage**. The applicant shall provide evidence to establish that the proposed Wireless Communications Facility is necessary to fill a gap in coverage. This requirement shall not apply to the extent the applicant demonstrates it is preempted by federal law or state law.”

These modifications are incorporated into the attached ordinance. The staff report for the January 15, 2019 City Council meeting, which provides a detailed explanation of the amendments to the Municipal Code, is attached for reference (see Attachment 1).

**FISCAL IMPACT**

The proposed ordinance has no fiscal impact on the City's operating budget.

**PREPARED BY:** Miroo Desai, Senior Planner

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



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Christine Daniel, City Manager

**Attachments:**

- Staff Report from January 15, 2019 City Council Regular Meeting
- Draft Ordinance